

Comptroller of the Currency, Treasury

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loans in the nature of overdraft protection; and credit extended in connection with credit cards.

§ 161.14 Controlling person.

The term *controlling person* of a savings association means any person or entity which, either directly or indirectly, or acting in concert with one or more other persons or entities, owns, controls, or holds with power to vote, or holds proxies representing, ten percent or more of the voting shares or rights of such savings association; or controls in any manner the election or appointment of a majority of the directors of such savings association. However, a director of a savings association will not be deemed to be a controlling person of such savings association based upon his or her voting, or acting in concert with other directors in voting, proxies:

(a) Obtained in connection with an annual solicitation of proxies, or

(b) Obtained from savings account holders and borrowers if such proxies are voted as directed by a majority vote of the entire board of directors of such association, or of a committee of such directors if such committee's composition and authority are controlled by a majority vote of the entire board and if its authority is revocable by such a majority.

§ 161.15 Corporation.

The terms *Corporation* and *FDIC* mean the Federal Deposit Insurance Corporation.

§ 161.16 Demand accounts.

The term *demand accounts* means non-interest-bearing demand deposits that are subject to check or to withdrawal or transfer on negotiable or transferable order to the savings association and that are permitted to be issued by statute, regulation, or otherwise and are payable on demand.

§ 161.18 Director.

(a) The term *director* means any director, trustee, or other person performing similar functions with respect to any organization whether incorporated or unincorporated. Such term does not include an advisory director, honorary director, director emeritus,

or similar person, unless the person is otherwise performing functions similar to those of a director.

(b) [Reserved]

§ 161.19 Financial institution.

The term *financial institution* has the same meaning as the term *depository institution* set forth in 12 U.S.C. 1813(c)(1).

§ 161.24 Immediate family.

The term *immediate family* of any natural person means the following (whether by the full or half blood or by adoption):

(a) Such person's spouse, father, mother, children, brothers, sisters, and grandchildren;

(b) The father, mother, brothers, and sisters of such person's spouse; and

(c) The spouse of a child, brother, or sister of such person.

§ 161.26 Land loan.

The term *land loan* means a loan:

(a) Secured by real estate upon which all facilities and improvements have been completely installed, as required by local regulations and practices, so that it is entirely prepared for the erection of structures;

(b) To finance the purchase of land and the accomplishment of all improvements required to convert it to developed building lots; or

(c) Secured by land upon which there is no structure.

§ 161.27 Low-rent housing.

The term *low-rent housing* means real estate which is, or which is being constructed, remodeled, rehabilitated, modernized, or renovated to be, the subject of an annual contributions contract for low-rent housing under the provisions of the United States Housing Act of 1937, as amended.

§ 161.28 Money Market Deposit Accounts.

(a) Money Market Deposit Accounts (MMDAs) offered by Federal savings associations in accordance with 12 U.S.C. 1464(b)(1) and by state-chartered savings associations in accordance with applicable state law are savings accounts on which interest may be paid

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if issued subject to the following limitations:

(1) The savings association shall reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in the account; and

(2)(i) The depositor is authorized by the savings association to make no more than six transfers per calendar month or statement cycle (or similar period) of at least four weeks by means of preauthorized, automatic, telephonic, or data transmission agreement, order, or instruction to another account of the depositor at the same savings association to the savings association itself, or to a third party.

(ii) Savings associations may permit holders of MMDAs to make unlimited transfers for the purpose of repaying loans (except overdraft loans on the depositor's demand account) and associated expenses at the same savings association (as originator or servicer), to make unlimited transfers of funds from this account to another account of the same depositor at the same savings association or to make unlimited payments directly to the depositor from the account when such transfers or payments are made by mail, messenger, automated teller machine, or in person, or when such payments are made by telephone (via check mailed to the depositor).

(3) In order to ensure that no more than the number of transfers specified in paragraph (a)(2)(i) of this section are made, a savings association must either:

(i) Prevent transfers of funds in excess of the limitations; or

(ii) Adopt procedures to monitor those transfers on an after-the-fact basis and contact customers who exceed the limits on more than an occasional basis. For customers who continue to violate those limits after being contacted by the depository savings association the depository savings association must either place funds in another account that the depositor is eligible to maintain or take away the account's transfer and draft capacities.

(iii) Insured savings association at their option, may use on a consistent basis either the date on a check or the date it is paid in determining whether

the transfer limitations within the specified interval are exceeded.

(b) Federal savings associations may offer MMDAs to any depositor, and state-chartered savings associations may offer MMDAs to any depositor not inconsistent with applicable state law.

§ 161.29 Negotiable Order of Withdrawal Accounts.

(a) Negotiable Order of Withdrawal (NOW) accounts are savings accounts authorized by 12 U.S.C. 1832 on which the savings association reserves the right to require at least seven days' notice prior to withdrawal or transfer of any funds in the account.

(b) For purposes of 12 U.S.C. 1832:

(1) An organization shall be deemed "operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and * * * not * * * for profit" if it is described in sections 501(c)(3) through (13), 501(c)(19), or 528 of the Internal Revenue Code; and

(2) The funds of a sole proprietorship or unincorporated business owned by a husband and wife shall be deemed beneficially owned by "one or more individuals."

§ 161.30 Nonresidential construction loan.

The term *nonresidential construction loan* means a loan for construction of other than one or more dwelling units.

§ 161.31 Nonwithdrawable account.

The term *nonwithdrawable account* means an account which by the terms of the contract of the accountholder with the savings association or by provisions of state law cannot be paid to the accountholder until all liabilities, including other classes of share liability of the savings association have been fully liquidated and paid upon the winding up of the savings association is referred to as a *nonwithdrawable account*.

§ 161.33 Note account.

The term *note account* means a note, subject to the right of immediate call, evidencing funds held by depositories electing the note option under applicable United States Treasury Department regulations. Note accounts are